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09/988,944	11/19/2001	Antonio J. Colmenarez	US010421	9176

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/988,944
Filing Date: November 19, 2001
Appellant(s): COLMENAREZ, ANTONIO J.

Scully Scott Murphy & Presser
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/05/2005 appealing from the Office action
mailed 02/09/2005.

AT

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,191,773	Maruno et al.	2-2001
6,677,965	Ullmann et al.	01-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Maruno et al. ("Maruno", US 6,191,773).

As per claim 1, Maruno teaches a video display device comprising: a display configured to display a plurality of selection options (Fig. 7A, *displaying a plurality of selection options such as menu 201, 202*); a processor operatively coupled to the display and configured to sequentially highlight each of the plurality of selection options for a period of time and configured to receive a selection gesture from the user for selecting a highlighted selection option (figs. 7A and 7B, *menu items are sequentially highlighted when the user points out one or two fingers for a period of time (see col. 5, lines 33-41); a selection gesture is received by the processor when the user maintains the same hand shape for a period of time while the selection option is highlighted (see col. 5, lines 43-45)*)).

As per claim 3, Maruno teaches the video display device wherein the processor is configured to highlight each of the plurality of selection options by causing the display to alter a display characteristic for one of each of the plurality of selection options for the period of time (Fig.1, *selected menu 201 is highlighted to distinguish it from menu 202*).

As per claim 4, Maruno teaches the video display device comprising an audio output device, wherein the processor is configured to highlight each of the plurality of selection options by causing the audio output device to sequentially output an audio indication associated with a corresponding one of each of the plurality of selection options (col.5, lines 31-45, *using sound or voice from the display device in tune with the emphasis display*).

As per claim 5, Maruno teaches the video display device of claim 1, comprising a camera operatively coupled to the processor for acquiring an image of the user containing the selection gesture (Fig.1, *CCD camera 3*, col.4, lines 33-34).

As per claim 6, Maruno teaches the video display device wherein the image information is contained in a plurality of images and wherein the processor is configured to analyze the plurality of images to determine the selection gesture (Fig.2, lines 40-54, *shape identifying means analyzes images to determine selection gesture*).

As per claim 7, Maruno teaches the video display device wherein the image information is contained in a plurality of images and wherein the processor is configured to determine the selection gesture by analyzing the plurality of images and determining a trajectory of a hand of the user (Fig.4, lines 40-54, *shape identifying means analyzes the plurality of hand images and calculates the image difference of the trajectory of the hand*).

As per claim 8, Maruno teaches the video display device wherein the processor is configured to determine the selection gesture by analyzing an image of the user and determining a posture of a hand of the user (Fig.4, col.4, line 67- col.5, line 30, *contour depicting unit 222 depicts the posture of a hand of the user*).

As per claim 9, Maruno teaches the video display device wherein the video display device is a television (col.1, lines 7-10, *display such as a television*).

As per claim 10, Maruno teaches a method of providing a user interface containing a plurality of selection options, the method comprising the acts of: displaying

a plurality of selection options (Fig.1, col.4, lines 32-40, *displaying a plurality of selection options such as menu 201, 202*); highlighting each one of the plurality of selection options sequentially (col.1, lines 40-55, *indicating display objects sequentially by hand movement recognition*); and analyzing an image of the user to determine whether the image contains a selection gesture for a highlighted selection option (Fig.2, lines 40-54, *shape identifying means analyzes images to determine selection gesture*).

Claims 11-13, and claims 15-17 are similar in scope to claims 6-8 respectively and therefore are rejected under similar rationale.

Claim 14 is similar in scope to claim 10 and therefore is rejected under similar rationale.

Per claim 18, Maruno teaches the video display device of claim 1, wherein the processor highlights a next of the selection options in response to determining that the selection gesture has not been received when a current one of the selection options is highlighted (figs. 7A and 7B; col. 5, lines 35-45; the examiner considers the selection gesture to be the user maintaining the same hand shape for a specific time when a current one of the section is highlighted. The examiner interprets the processor highlights a next of the selection options in response to determining that the selection gesture has not been received to be the processor highlights a next of the selection options in response to determining that the user does not maintaining the same hand shape for a specific time by pointing out two finger as in fig. 7(B).)

Claim 19 is rejected under the same rationale as claim 17.

Claim 20 is rejected under the same rationale as claim 17.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maruno et al. ("Maruno", US 6,191,773) and Ullmann et al. ("Ullmann", U.S. Pat. No. 6,677,965).

As per claim 2, Maruno teaches the video display device of claim 1, wherein the processor is configured to highlight each of the plurality of selection options for the period of time (figs. 7A and 7B; *menu items (201 and 202) are sequentially highlighted when the user points out one or two fingers for the period of time (see col. 5, lines 33-41)*), but does not teach wherein the processor is configured to highlight each of the plurality of selection options by causing the display to display only one of each of the plurality of selection options for the period of time. However, Ullmann teaches wherein the processor is configured to highlight each of the plurality of selection options by causing the display to display only one of each of the plurality of selection options for the period of time (fig. 3b; col. 3, lines 10-14; *a user can select each one of the selections options one at a time using selection buttons (36 and 37)*). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the list control as taught by Ullmann in the invention of Maruno in order to save the display space or to display the list control where a display space is limited.

(10) Response to Argument

The appellant argues the following:

(a) Maruno fails to teach "a processor is configured to receive a selection gesture from the user for selecting a highlighted selection option".

(b) Maruno fails to teach "highlighting a next selection option in response to determining that a selection gesture has not been received".

(c) Ullmann is concerned with a graphical user interface that uses “rubber band” image to control the speed at which selections scroll or a control operation is repeated and there is no motivation to combine Maruno and Ullmann since they are concerned with different technical problems (pg. 16-17 of the Appeal Brief).

The examiner does not agree for the following reasons:

(a) Maruno teaches a processor is configured to receive a gesture selection from a user for selecting a highlighted selection option (see, figs. 7A and 7B; *menu items (201 and 202) are sequentially highlighted when the user points out one or two fingers (see col. 5, lines 33-41); a selection gesture is received by the processor when the user maintains the same hand shape for a period of time while the selection option is highlighted (see, col. 5, lines 43-45))*

(b) Maruno teaches the processor highlights a next of the selection options in response to determining that the selection gesture has not been received (*figs. 7A and 7B; col. 5, lines 35-45*). The examiner considers the selection gesture to be the user maintaining the same hand shape for a specific time when a current one of the selection is highlighted. The examiner further interprets figures 7A and 7B to show the processor highlighting a next selection option in response to determining that the selection gesture has not been received. In figure 7A, after pointing out 1 finger to highlight option 1, and before option 1 is selected by maintaining the same hand shape for a specific time, the user points out two fingers as in fig. 7(B). At this time, the next selection, which is option 2, would be highlighted since a selection of option 1 has not been received and the user indicates a change of menu option.

(c) The examiner acknowledges that Ullmann is concerned with a graphical user interface that uses a “rubber band” image to control the speed at which selections scroll or a control operation is repeated. However, the examiner does not rely on the rubber band graphical user interface control of Ullmann. The feature that the examiner relies on is a list control (34) of figure 3b that displays the entire list one selection option at a time and the user has the control over what is being displayed by using the selection buttons (36 and 37) (see, col. 3, lines 10-13). Moreover, this list control is independent of the rubber band graphical user interface. It is well known in the art to combine the list control with another menu list interface in order to display the entire list of selections to a user within a limited display space.

It is noted that Maruno teaches the processor is configured to highlight each of the plurality of selection options for the period of time (figs. 7A and 7B; *menu items (201 and 202) are sequentially highlighted when the user points out one or two fingers for a period of time (see col. 5, lines 33-41)*), but does not teach wherein the processor is configured to highlight each of the plurality of selection options by causing the display to display only one of each of the plurality of selection options for the period of time. However, Ullmann teaches wherein the processor is configured to highlight each of the plurality of selection options by causing the display to display only one of each of the plurality of selection options for the period of time (fig. 3b; col. 3, lines 10-14; *a user can select each one of the selections options one at a time using selection buttons (36 and 37)*). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the list control as taught by Ullmann in the invention of

Maruno in order to save the display space or to display the list control where a display space is limited.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Thanh T. Vu

Conferees:

Sy D. Luu



PRIMARY EXAMINER

Kristine L. Kincaid



KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100